

## **ADMINISTRATIVE LEAVE**

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### **OBJECTIVE**

It is the Commonwealth's objective to provide employees with paid leave to appear in court or related proceedings, to serve on state councils and other bodies, to resolve work-related conflicts, to participate in the resolution of complaints of employment discrimination, to attend administrative hearings, and to interview for other state positions.

### **I. EMPLOYEES TO WHOM POLICY APPLIES**

This policy applies to positions covered under the Virginia Personnel Act to include full-time and part-time classified, and restricted employees. (See section II (A) of Policy 2.20, Types of Employment.)

### **II. USE OF ADMINISTRATIVE LEAVE**

- A.** Administrative leave provides paid leave to:
  - 1. serve on a jury, to appear as a witness in a court proceeding or deposition, as compelled by a subpoena or summons (see section II(B) for exception), or to accompany a minor child to court when the child is legally required to be present in court;
  - 2. interview for other positions with the state;
  - 3. participate in resolution of work-related conflicts;
  - 4. participate in resolution of complaints of employment discrimination;
  - 5. attend work-related administrative hearings; and
  - 6. serve on councils, commissions, boards or committees of the Commonwealth (see section VII).
- B.** Administrative leave is not available for employees to appear in criminal proceedings, including depositions, in which the employee is a criminal defendant. However, employees may use administrative leave when they receive a traffic summons.
- C.** Employees should request administrative leave from their supervisors as far in advance of the leave as practicable and in compliance with agencies' policies.

### **III. COURT APPEARANCES**

- A. Compensable time spent in court appearances**
  - 1. Employees may charge to administrative leave only the time away from work that is necessary to appear at a court proceeding, to give a deposition, to serve as a juror, or to accompany a minor child to court

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when the child is legally required to be present in court. Except when accompanying a minor child, employees' appearances at any of these events must be compelled by subpoena or summons.

2. Reasonable travel time is included in the actual time away from work that may be charged to administrative leave.
3. *Employees who appear for jury duty for four or more hours in one day, including travel time, will not be required to start a work shift that begins on or after 5:00 p.m. on the day of his/her appearance for jury duty or that begins before 3:00 a.m. on the day following the day of his/her appearance for jury duty.*
3. Employees who regularly work the evening or night shift should be rescheduled, whenever possible, to work the day shift during the periods when they are required to appear in court proceedings.

### **B. Verification of court appearances**

1. Agencies may require employees to provide documentation of the actual time required for court duties.
2. Employees are responsible for obtaining verification of their appearances at court proceedings from the appropriate court personnel, in accordance with agencies' practices.

### **C. Compensation for court appearances**

1. Compensation paid by a court to an individual under subpoena or summons may consist of:
  - a. payment for an employee's service to appear as a juror or witness; and
  - b. reimbursement when serving as a juror or witness for daily expenses, such as out-of-pocket expenses for meals, mileage, parking, and other related expenses.
2. Payment for services
  - a. Except as provided in section III(C)(3) below, to charge absences from work to administrative leave, employees must submit to their agencies any payments for services received from the courts within a reasonable period of time, as determined by their agencies, following the court appearances.
  - b. Failure to submit payment for services to an employee's agency will result in the absence being charged to accrued leave or leave without pay if the employee does not have adequate accrued leave.
3. Retention of payment for services
  - a. Employees who wish to retain payment for services must charge their absence to annual, compensatory or overtime

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- leave, or, if no leave balances are available, to leave without pay.
- b. Employees assigned to the evening or night shift who cannot be rescheduled to the day shift may retain reimbursement for services in addition to pay for their scheduled shift if the entire shift is worked. If court is held during a portion of the employee's shift, the employee must charge the time absent from work to annual, compensatory or overtime leave, or to leave without pay, in order to retain the reimbursement for services.
- 4. Retention of reimbursement for expenses
  - a. Employees may keep reimbursement for expenses.
  - b. Employees who serve as **Virginia circuit court jurors** may retain fees given by the court as these fees are considered as reimbursement of expenses.

### **D. Time not charged to administrative leave**

Time spent in court by the following categories of employees is considered work time and does not have to be charged to administrative leave:

- 1. law enforcement officers;
- 2. employees attending court as part of their job duties;
- 3. employees who are under subpoena to appear as expert witnesses by virtue of their positions with the Commonwealth; and
- 4. employees who are called by the Commonwealth as expert witnesses.

## **IV. SEEKING OTHER STATE EMPLOYMENT**

### **A. Actual time**

Administrative leave may be granted for the actual time, including reasonable travel time, necessary for interviewing for other state positions. Agencies may require verification of the time required.

### **B. Reasonable limit**

Agencies may establish reasonable limits on the amount of administrative leave that may be approved for traveling to and interviewing for other state positions. Agencies may also limit the use of administrative leave if they determine that it is being used excessively for this reason.

### **C. Expenses**

Employees must pay for their expenses incurred in interviewing for other state positions.

## **V. RESOLUTION OF WORK-RELATED CONFLICTS**

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**A. Grievances under the Grievance Procedure for State Employees**

Employees who are grievants, witnesses, panel members, or representatives of grievants, in a grievance initiated under the State's Grievance Procedure will be granted reasonable amounts of administrative leave, including allowances for travel time, to participate in grievance proceedings.

1. Administrative leave will be granted for grievants and witnesses to attend management step meetings, to attend panel hearings, and to attend court hearings related to the grievance.
2. Administrative leave will be granted for panel members to attend panel hearings.
3. Employees who are regularly scheduled to work the evening or night shift should be rescheduled, whenever possible, to work the day shift when requested to appear as a witness at a management step meeting, panel hearing, or court hearing.

**B. Meetings with the Department of Employment Dispute Resolution**

1. Administrative leave, including reasonable travel time, will be granted for employees to meet with DEDR, in accordance with the Grievance Procedure for State Employees.
2. Administrative leave related to interviews with DEDR will be granted even if a grievance has not been filed. Employees outside the Richmond area should be granted the same benefit with reasonable travel time charged to administrative leave.

**C. Meetings with the Employee Assistance Program (EAP)**

1. Administrative leave will be granted for employees' first meetings with the EAP.
2. Absence from work for treatment or assistance to which an employee has been referred by the EAP will not be charged to administrative leave but will be charged to an employee's accrued leave, as appropriate, or to leave without pay if the employee does not have adequate accrued leave.

**D. Meetings with the Office of Equal Employment Services (OEES) of the Department of Human Resource Management**

Administrative leave, including reasonable travel time, will be granted for employees to meet with OEES for the purpose of discussing work problems related to violations of the state's Equal Employment Opportunity Policy (Policy 2.05).

**E. Verification**

Agencies may require employees to provide documentation of the actual time spent at work-related meetings described above.

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### VI. UNEMPLOYMENT COMPENSATION AND WORKERS' COMPENSATION

#### HEARINGS

- A. Administrative leave will be granted for the attendance of claimants and witnesses who are complying with an official notice of an unemployment compensation or workers' compensation hearing.
- B. Employees whose job responsibilities include attendance at unemployment and workers' compensation hearings will have time spent at such hearings included in their hours worked.

### VII. SERVICE ON STATE COUNCILS, COMMISSIONS, BOARDS AND COMMITTEES

- A. **Responsibilities to State councils, etc.**  
Administrative leave will be granted for employees to fulfill their responsibilities as members of councils, commissions, boards and committees established by the General Assembly or other bodies established by the Governor.
- B. **Non-exempt employees**  
Those employees subject to the provisions of the Fair Labor Standards Act (i.e., non-exempt employees) who are required to attend such meetings will have the time considered as hours worked.
- C. **Fees for service on councils, commissions, boards, etc.**
  - 1. Employees may not accept fees for serving on state councils, commissions, boards, etc., unless provided otherwise by law.
  - 2. Employees may retain reimbursements for expenses incurred in serving on state councils, commissions, boards, etc., provided they are not reimbursed for the same expenses by their agencies.

### VIII. AUTHORITY AND INTERPRETATION

This policy is issued by the Department of Human Resource Management pursuant to the authority provided in Title 2.2, of the Code of Virginia. This policy supersedes Policy 4.05, Administrative Leave, issued December, 1994.

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with section 2.2-1201 of the Code of Virginia. Questions regarding application of this policy should be directed to the

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Department of Human Resource Management's Office of Agency Human Resource Services. The Department of Human Resource Management reserves the right to revise or eliminate this policy as necessary.